

### **XI. Section 67, Powers to compound offences.**

#### **A. ORDERS OF GOVERNMENT REGARDING COMPOUNDING CASES AND PROSECUTION OF OFFENCES—concluded.**

6. No order should be given to proceed under section 67 in any case in which the Divisional Forest Officer would not be prepared to order magisterial proceedings to be taken under paragraph 2 above, in the event of the accused declining or failing, within a time to be fixed in the order, to comply with the terms of composition offered or agreed to.

7. No restraint should be placed by subordinate forest officers on persons suspected of offences to be made the subject of these reports, except when they fail to satisfy the officer as to their identity and residence or when there is reason to fear they may not be forthcoming when wanted. In such cases the offices concerned should, if the case is one in which in his opinion further proceedings (apart from mere impounding of cattle) are necessary, arrest the offenders and send them to the nearest Magistrate or Police station as required by section 63, making at the same time the usual report to the Divisional Forest Officer. Cases in which the accused has been arrested as above should take their usual course without waiting for the orders of the Divisional Forest Officer. But in case an order to compound is received at any time before such a case is disposed of by the Magistrate having jurisdiction, the Magistrate should be informed of it and asked, if the accused complies with its terms, to discharge him under section 67 (2).

8. The reports proposed above should be prepared by the forest subordinate himself if he can write; if not, by his immediate superior, to whom the facts may be reported verbally if he is within reach, or by the village Kulkarni or Taláti, and when the accused is in attendance, should be read over to him, and countersigned by the Pátíl in token that this has been done before despatch. Any objection the accused may take should be noted.

### **B. Registration of Offences.**

315. The object which Government has chiefly at heart is that people should be protected against the imposition of unnecessary penalties under pretext of composition for trivial offences and against illegal detentions and undue harassment in the course of proceedings taken with a view to such composition.\*

Rules regulating the  
registration of forest  
offences.

It is clear that this object can only be attained if the Divisional Forest Officer is made acquainted with the discovery of an offence at the earliest possible date and thus placed in a position to watch the course of the subsequent enquiry.

#### **I. First Report.**

1. Every Forest Guard shall keep a "First Report Book", and immediately on an offence coming to his knowledge shall fill up or cause to be filled up a form of "First Report" which he shall despatch or take to the guard of his round.

First Report.

\* Government Resolution No. 4516, dated 15th June 1895.

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#### **B. REGISTRATION OF OFFENCES—*continued.***

2. If the knowledge of an offence is obtained from the report of an informer, the Forest Guard shall proceed at once to the place, and after verifying the report shall make his "First Report" without delay.

3. If the Forest Guard cannot write and can obtain no one to write his Report, he shall at once go to his "Round Guard" and have the Report written by him from his own verbal report.

4. A Guard is personally responsible for the writing and despatch of the First Report. The counterfoil is his voucher for the report having been made.

5. A Guard shall always carry his First Report Book on his person and produce it for inspection on demand by any Government official.

NOTE.—Rules 1 to 5 should be separately printed as slips and pasted on the cover of the First Report Book.

6. This procedure is laid down especially for Forest Guards, who ordinarily are the first discoverers of an offence, but shall also be applicable to any Forest Officer discovering an offence.

7. Immediately on receipt of a First Report, the Round Guard shall enter the facts in his "Enquiry Register" (Rule 11), and shall forward the First Report without delay to the Head-quarters of his Range.

8. The First Report shall on no account be enclosed in a packet with other papers, and the envelope containing it shall be distinctly marked "First Report."

9. The Range Forest Officer (or his Writer Guard, should he be absent on tour) shall enter the facts of the Report in the Range Offence Register (Rule 18) and shall without delay forward the First Report to the Divisional Forest Officer by the first post in an envelope by itself (if necessary, several First Reports may be enclosed in one packet).

10. Immediately on its receipt the Divisional Forest Officer shall enter the facts in the Divisional Offence Register (Rule 22).

### **II. Enquiry Register and Report.**

11. Every Round Guard shall keep an "Enquiry Register," and at the earliest possible date after receipt of a First Report he shall proceed to the spot where the offence has been committed, and complete his Enquiry Register as provided.

Enquiry Register and Report.

12. He will be held responsible that the fullest possible enquiry is made, including the drawing up of the *panchnama*, the recording of statements of the witnesses for the prosecution of the accused and of his witnesses. The offender must always be formally asked to cite witnesses, and should he refuse to do so it should be recorded as part of his statement.

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**B. REGISTRATION OF OFFENCES—continued.**

13. At the same time as the Enquiry Report is sent to the Range Headquarters, a report under section 52, clause 2, Indian Forest Act, shall be submitted to the Magistrate whenever any property has been attached, and a copy of this report shall be attached to the Enquiry Report by the Round Guard.

14. As soon as the enquiry is complete, the Report with its accompanying statements (Rules 12 and 13) shall be forwarded to the Range Forest Officer.

15. No head of the Enquiry Report shall ever be returned blank, for instance "if no previous warning, conviction or reason for special punishment" is known, then a note to that effect must be entered in the Report.

16. No letter or statement of opinion is to accompany the Enquiry Report. Whatever of this nature the Round Guard has to say must be embodied in his statement as a witness for the prosecution and attached to the Report.

17. This procedure is specially laid down for Round Guards who ordinarily carry out enquiries, but it shall also be applicable to any Forest Officer making enquiry.

**III. Range Offence Register.**

18. Every Range Forest Officer shall keep a "Range Offence Register," and on receipt of the Enquiry Report shall enter the facts therein as provided. The entries in this register will not be copies of those of the Enquiry Report, but a précis of the facts and statements recorded in it.

19. If the Range Forest Officer is aware of any previous warning or conviction (he should always compare the names of offenders with those given in the Register of Offenders kept in each Range Forest Office), or reason for special punishment which has not been recorded by the Round Guard, he shall enter the same in the Enquiry Report over his signature. No addition or alteration may on any excuse be made in the Enquiry Report.

20. If, in the opinion of the Range Forest Officer, the enquiry is complete, he shall forward the Enquiry Report and its accompaniments to the Divisional Forest Officer without delay.

**IV. Further Enquiry Report.**

21. If, however, he thinks further enquiry is required, he shall on no excuse return the papers to the Round Guard, but shall himself proceed, with the least possible delay, to make such further enquiry and record the result in a "Further Enquiry Report" as provided and forward the Enquiry Report together with his Further Enquiry Report to the Divisional Forest Officer for orders.

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**B. REGISTRATION OF OFFENCES—continued.****V. Divisional Offence Register.**

22. Every Divisional Forest Officer shall keep a "Divisional Offence Register," and on receipt of the Enquiry Report and its accompaniments, shall complete the entry of the offence therein (the First Report will have already been entered). He shall then record his order on the case and shall return the papers together with a copy of his order (in the form provided) to the Range Forest Officer for disposal.

23. It must necessarily be left to the Divisional Forest Officer to judge what action is necessary, but it is well to point out that (unless the case is a serious one, Rule 25), if the evidence of the Enquiry Report fails to be convincing, even though it may seem to the Divisional Forest Officer that it might be strengthened by further enquiry, it will be better to write off the case under A or B (Divisional Order, Rule 22), and to proceed separately to the Departmental punishment of the subordinates responsible for the failure of justice, rather than to permit the undue lengthening of the case which would result from further enquiry.

24. In no case shall the Divisional Forest Officer return the case for revision to the Range Forest Officer who submitted it.

25. If in the opinion of the Divisional Forest Officer the case is too serious to be written off, or that for any other reason a second enquiry is absolutely necessary, he should, if possible, proceed personally to make it, or, if this is impossible, should depute an Extra-Assistant or a Subordinate (who is not junior to the Range Forest Officer submitting the case) to make a second enquiry. The procedure in the second enquiry should be exactly the same as for the original enquiry—in fact the enquiring officer should proceed exactly as if he had just received a first report of the offence.

**VI. Final Report.**

26. As soon as the Divisional Forest Officer's order has been carried out, the Range Forest Officer shall return the papers to the Divisional Forest Officer with his "Final Report" in the form provided.

27. When a case is prosecuted before a Magistrate, the papers in the case may be kept by the Court, but in every case the actual Enquiry Report should be retained by the Range Forest Officer and attached to his Final Report together with the judgment certificate.

28. On receipt of the Final Report the Divisional Forest Officer shall complete his Register and file the papers.

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29. Every quarter,—that is, on the 1st October, 1st January, 1st April, and 1st July in each year—the Divisional Forest Officer shall submit a Return of Forest Offences to the Conservator through the Collector in the form provided. This return will contain :—

1st. All cases which have been more than three months on the Register (where the cases are still incomplete all particulars should be filled in so far as the entries at date in the Divisional Offence Register will permit).

2nd. All cases registered and completed during the quarter, in the above order.

**VIII. General.**

30. From the date of the First Report it will be the duty of the Range Forest Officer (and still more of the Divisional Forest Officer) to watch the progress of the enquiry. Should there be delay in the receipt of the Enquiry Report, he should find out the reason; but any reference to this end must be kept entirely distinct from the case, delay in any stage of the proceedings should be punished departmentally by excluding the subordinate responsible from a share in the reward, and also, if necessary, by direct fine.

31. When the Range Forest Officer delays the papers in order to make a further enquiry the Divisional Forest Officer should note especially whether such further enquiry was really necessary. If it was, the Round Guard should be punished; if it was not, the Range Forest Officer should be so. Should a Round Guard constantly send in incomplete inquiries, he should be reduced and warned, and if this has no effect, should be dismissed.

32. It will be noted that this procedure refers exclusively to offences under the Indian Forest Act. It is on no account to be applied to offences under the Indian Penal Code, or any other Act. Any such case which may arise shall immediately on discovery be referred to the Police for enquiry and disposal by the Range Forest Officer, to whom all such cases shall be reported by Forest Guards. When action is taken under this rule by the Range Forest Officer, he shall immediately report in full detail to the Divisional Forest Officer.

**315a.** 1. In Sind, Forest offences generally consist of—

(a) trivial offences, such as damage to trees, thefts of timber for private use or of Forest produce which the residents of villages on the outskirts of forests wish to appropriate to their own use;

(b) thefts of timber on a large scale, generally instigated by traders or wealthy persons;

(c) breaches of the rules regulating free grazing and illicit grazing.

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**B. REGISTRATION OF OFFENCES—continued.**

2. Most of the offences detected by Forest Guards having a range of from 4 to 5 square miles to look after are of a trivial character, and the offenders are not too ignorant to know that they are committing an offence.

3. Should, therefore, a Forest Guard under section 63 of the Forest Act seize a man in the act of committing an offence which, if it falls under 1 (a), should be dealt with under section 67 of the Forest Act by the officer empowered to act under that section on an enquiry held in the manner hereinafter laid down, the following procedure should be observed :—

(a) A person caught in the act of committing an offence should be taken by the Forest Guard to the Wadero, Headman, Nekmard or Mukhi of the nearest village and in his presence accused of the offence charged. Should the offender confess, his confession should be taken down in writing in the presence of two respectable witnesses and signed by the Wadero, Headman, Nekmard or Mukhi. The offender should then be released and his confession with a report on the offence should be forwarded by the Forest Guard to the Range Forest Officer. The latter, when he next visits the forests, should send for the offender and assemble a Panchayat, consisting of not less than 3 members who should be men of some standing and influence in the community, and in the presence of this assembly ask the offender if he adheres to his original confession. Should the offender adhere to his confession, the Panchayat should be asked to certify to his having done so. A statement describing the damage done should then be drawn up by the Range Forest Officer and each member of the Panchayat should be asked to sign it. It should be submitted to the Divisional Forest Officer, who will fix the amount of the compensation to be accepted from the offender (which should not exceed Rs. 50 in any case) and authorise the Range Forest Officer to accept it.

(b) In the event of the offender offering to pay the compensation fixed by the Divisional Officer, the money should be paid to the Range Forest Officer and credited in his account. If he refuses to pay the compensation fixed the proceedings should be returned by the Range Forest Officer to the Divisional Forest Officer, who should make such enquiry into the matter as he considers necessary and, should he consider the case of sufficient importance, may order the offender to be prosecuted before a Magistrate.

(c) In every case in which property not being the property of Government is seized in connection with a Forest offence, the Forest Guard shall mark it and report the seizure to the Magistrate having jurisdiction to try the offence.

4. Divisional Forest Officers will, however, recollect that it is the desire of Government that trespassers should not be prosecuted for purely trivial offences, such as cutting thorns for a hedge. Unless, therefore, young trees have been lopped or old trees seriously damaged, the Divisional Forest Officer should order a nominal fine or discharge the offender without punishment.

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5. Cases of suspected offences, *i. e.*, where the person charged denies his guilt, should, if necessary, be referred to a Criminal Court, information being laid by a Forest Officer.

6. Offences falling under 1 (b) should always be referred to a Criminal Court for trial.

7. As regards breaches of the rules laid down respecting grazing [1 (c)], the following procedure should be followed in future :—

All cattle found grazing without passes having been taken out for them, all cattle found grazing in closed blocks or places where grazing is forbidden, all cattle found during the period from the 15th October to the 15th April, both inclusive, grazing between half an hour after sunset and half an hour before sunrise should be impounded. They may, however, be saved from being impounded by the payment of 1 month's fees as a fine, and where a pass has not been taken out the taking out of a pass for not less than 2 months. If they are thus saved, the fact of 1 month's fees having been paid as a penalty and the amount so paid shall be noted on the pass issued.

8. Every officer empowered to act under section 67-A of the Indian Forest Act—

(a) should keep a Register of all enquiries held under these orders ; and

(b) should at the end of each month forward a Return of all cases, in which he or his predecessor in office has during that month accepted compensation under section 67-A, to the Collector and District Magistrate.

9. ~~The Register and Returns~~ should be written in English and in the following form :—

1	2	3	4	5	6	7
Serial No.	Suspected Offender.	Rule or Enactment under which the Suspected Offender is punished.	Date of Suspected Offence.	Date of Enquiry.	Forest Produce damaged.	Compensation accepted.

10. Every officer empowered as aforesaid should forward to the Collector and Magistrate of the District the records of any enquiry held under these orders which the Collector and Magistrate of the District may require for examination.

11. Every monthly Return of cases should, after examination by the Collector and Magistrate of the District and the record thereon by him of his remarks, if any, be forwarded to the Deputy Conservator of Forests, Sind Circle.

12. It will be the duty of the Deputy Conservator of Forests on his tour to ascertain how these orders have been carried out, and the District, Sub-Divisional and Taluka Magistrates should also on their tours make personal enquiry into some of the cases that have been reported in order to see that the proceedings have been regular.

No. 59.

Clause 9. Page 215.

*Substitute the following for clause 9 :—*

9. The Register and Return should be written in English and be in the form in use in the Presidency Proper.

(Government Resolution No. 51, dated 4th February 1911.)